

REMARKS

I. ALLOWABLE SUBJECT MATTER

The Applicants appreciate the Examiner's allowance of claims 8-14, and indication of allowable subject matter in claims 3, 5, 6 and 7. See Office Action paragraphs 7-9.

II. JUDICIAL OBVIOUSNESS-TYPE DOUBLE PATENTING

Claim 1 stands rejected under judicial obviousness-type double patenting as allegedly unpatentable over claim 1 of co-pending U.S. Patent Application 11/244,187 (published as U.S. Patent Publication 2006/0031742). Claim 1 of the present application is canceled. Thus, the double patenting rejection is moot.

III. PRIOR ART REJECTIONS

Claims 2 and 4 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Ohyama et al. U.S. Patent No. 6,802,040 (hereinafter Ohyama). See Office Action paragraphs 4 and 5 respectively.

Claim 2 has been amended into independent form, and has incorporated all of the limitations of canceled claim 1.

Independent claim 2 recites "the error correction is performed for the input data using the **number of errors estimated** in the error number estimation step **and the number of errors computed** in the error number computation step." Emphasis added.

Anticipation under 35 U.S.C. § 102(b) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed Cir. 1987).

At a minimum, the cited prior art does not disclose (expressly or inherently) the above recited limitation. The Office Action, page 5, asserts that said recitation is disclosed by Ohyama at column 2 step (4). However, Ohyama column 2 step (4) merely discloses “[o]btain an error count value from the error location polynomial, the error estimation polynomial and the error location, and corrects the obtained error count value.” See Ohyama, column 4, lines 59-67, and column 5, lines 1-6, for additional discussion of the Ohyama “error estimation polynomial.”

Clearly, Ohyama does not disclose at least the following feature of claim 2: “the error correction is performed for the input data using the **number of errors estimated** in the error number estimation step and the **number of errors computed** in the error number computation step.” Emphasis added.

In claim 2, the “number of errors estimated” is **distinct** from the “number of errors computed,” and **both** of these numbers are used to perform error correction for the input data. In the present specification, Figure 1 block S60 “ESTIMATE NUMBER OF ERRORS” is separate and distinct from block S80 “COMPUTE NUMBER OF ERRORS,” and the output from both of these two distinct blocks is used to perform error correction for the input data.

Note that Figure 1, block S60 “ESTIMATE NUMBER OF ERRORS” estimates the number of errors EN1 that have been generated in the input data DI is estimated from the input data syndromes SI computed in step S11 and in step S10. See specification paragraph [0043].

Further and distinctly, Figure 1, block S80 “COMPUTE NUMBER OF ERRORS” computes the number of errors NA obtained from the roots of the error locator polynomial

computed in step S30 and the number of errors NB in the extended component that is computed in step S51. See specification paragraph [0044].

In contrast to the present invention, Ohyama merely discloses an error count value, and does not disclose the claim 2 recitation “the error correction is performed for the input data using the **number of errors estimated** in the error number estimation step and the **number of errors computed** in the error As such, it is clear that Ohyama fails to disclose the recited error correction step which uses both the number of errors estimated, and the number of errors computed.

Thus, as Ohyame does not disclose or suggest each and every element of independent claim 2, independent claim 2 is not anticipated by Ohyama. Further, claim 2 is not obvious in view of Ohyama and the cited prior art.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as independent claim 2 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon (claims 3-7) are also patentable. In addition, it is respectfully submitted that the dependent claims 3-7 are patentable based on their own merits by adding novel and non-obvious features to the combination.

Thus, dependent claims 3-7 are not anticipated by Ohyama, and are not obvious in view of Ohyama and the cited prior art.

IV. CONCLUSION

For at least the above reasons, all pending claims (2-14) are in condition for allowance.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call the Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP

Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 MEF/EGO/dmd
Date: November 6, 2006
Facsimile: (202) 756-8087

**Please recognize our Customer No. 20277
as our correspondence address.**